

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
FILED
MAY 28 2009
CLERK, U.S. DISTRICT COURT
By _____ Deputy

Plaintiffs,

Civil Action No. _____

Defendants.

31481

I. PARTIES

- ## II. JURISDICTION AND VENUE

4. This is an action to enjoin Defendants from withholding records and to order Defendants to produce records under the Freedom of Information Act (5 U.S.C. § 552 *et seq.*) and the Administrative Procedures Act (5 U.S.C. § 701 *et seq.*).

5. Plaintiffs reside in Dallas, Texas. This Court, therefore, has jurisdiction over this action and Defendants under 5 U.S.C. § 552(a)(4)(B).

6. Venue is proper in this Court pursuant to the provisions of 28 USC § 1391(e) and 1400.

III. FACTUAL BACKGROUND

7. On January 26, 2009, Plaintiffs transmitted the Freedom of Information Act Request attached hereto as Exhibit A (the FOIA Request) to Defendant NIST via email and U.S. Certified Mail, Return Receipt Requested. The content of Exhibit A is incorporated herein by reference.

8. On March 10, 2009, Plaintiff Gourley received a telephone call from Ms. Catherine Fletcher, Chief FOIA Officer for Defendant NIST.

9. Although Ms. Fletcher was calling about an unrelated matter, Plaintiff Gourley asked Ms. Fletcher if and when Defendant NIST planned on responding to the FOIA Request.

10. Ms. Fletcher said she did not remember seeing it, and asked Plaintiff Gourley to send it again to her via email.

11. That same day, March 10, 2009, Plaintiff Gourley followed up with an email to Ms. Fletcher (to foia@nist.gov and catherine.fletcher@nist.gov), again attaching the FOIA Request on behalf of both Plaintiffs.

12. To date, Plaintiffs have not received any correspondence from NIST indicating that it has received or started processing the FOIA Request. In fact, to Plaintiffs' knowledge, Plaintiffs' FOIA Request has not been assigned a reference number.

COUNT I

FREEDOM OF INFORMATION ACT AND ADMINISTRATIVE PROCEDURES ACT

13. The allegations of paragraphs 1 - 12 above are realleged and incorporated herein by reference.

15. Under 5 U.S.C. § 552(a)(6)(A)(i), Defendant NIST was required to make a determination on whether to comply with the FOIA Request within 20 business days of receipt, and notify Plaintiffs of such determination and the reasons therefor.

16. Because the FOIA Request was submitted via email on January 26, 2009, the 20-day time period for response expired on February 23, 2009.

17. When Plaintiff Gourley retransmitted the FOIA Request to Defendant NIST via email on March 10, 2009, Plaintiff Gourley stated Plaintiffs' position that the 20-day time limit for response had already expired at that time.

18. Under 5 U.S.C. § 552(a)(6)(C)(i), Plaintiffs are deemed to have exhausted their administrative remedies with respect to the FOIA Request because Defendants have failed to comply with the 20-day time limit cited above.

19. Plaintiffs seek an injunction against Defendants from withholding the records described in the FOIA Request, and an order compelling production of the agency records described in the FOIA Request under 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. §§ 702, 706.

COUNT II

DECLARATORY JUDGMENT AND FREEDOM OF INFORMATION ACT

20. The allegations of paragraphs 1 – 19 above are realleged and incorporated herein by reference.

21. Plaintiffs allege and seek a judicial determination pursuant to 28 U.S.C. §§ 2201 and 2202 that they are entitled to a fee waiver and/or reduction under 5 USC § 552(a)(4)(A)(iii), because the responsive records are likely to contribute significantly to public understanding of the operations of activities of government, and they are not in the commercial interest of Plaintiffs.

COUNT III

DECLARATORY JUDGMENT AND FREEDOM OF INFORMATION ACT

22. The allegations of paragraphs 1 – 21 above are realleged and incorporated herein by reference.

23. In alternative to Count II above, Plaintiffs allege and seek a judicial determination pursuant to 28 U.S.C. §§ 2201 and 2202 that any fees that are charged to Plaintiffs be limited to only duplication charges under 5 USC §552(a)(4)(A)(ii)(II), because the records are not sought for commercial use, and because this Request is being made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research, and because Defendants did not respond within the required time limit.

WHEREFORE, Plaintiffs pray for the following:

- (a) an injunction against Defendants from withholding the records described in the FOIA Request;
- (b) an order compelling production of the agency records described in the FOIA Request;
- (c) a judgment that Plaintiffs are entitled to a reduction in fees charged by Defendants in responding to the FOIA Request;
- (d) a judgment that Plaintiffs are entitled to a fee structure limited to duplication costs only;
- (e) a judgment awarding Plaintiffs the costs of this action, together with reasonable attorneys' fees; and
- (f) such other and further relief, both general and special, at law and in equity, to which Plaintiffs show themselves to be justly entitled and which this Court deems just, equitable and proper.

Dated: May 27, 2009

Respectfully submitted,

By: Robert J. McEwan

Robert J. McEwan
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ATTORNEY FOR PLAINTIFFS

National Institute of Standards and Technology
Catherine S. Fletcher, FOIA & Privacy Act Officer
100 Bureau Drive, STOP 1710
Gaithersburg, MD 20899-1710



RE: Freedom of Information Act Request

Dear Sir or Madam,

This is a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, (referred to herein as the "Request") for certain records believed to be in the possession of the National Institute of Standards and Technology (NIST).

In its draft report on the collapses of the World Trade Center buildings, NIST asserted that it reviewed 6,977 segments of video footage, totaling in excess of 300 hours, and 6,899 photographs. (NIST Draft Report of NCSTAR 1, p. 81, available online at <http://wtc.nist.gov/pubs/NISTNCSTAR1Draft.pdf>) In its final report, NCSTAR 1-6, NIST asserted that it reviewed nearly 150 hours of video footage and over 7,000 photographs for insights into the structural response of the Twin Towers. (NCSTAR 1-6, p. liii)

Also in its draft report, NIST represents that all of the visual materials that served as the basis for the report were placed into a searchable database in which each frame was characterized by a set of attributes. (NIST Draft Report of NCSTAR 1, p. 81, available online at <http://wtc.nist.gov/pubs/NISTNCSTAR1Draft.pdf>) Therefore, the undersigned suggest that NIST use this database to efficiently respond to this Request.

NIST also represents in its draft report that emphasis was placed on obtaining the visual material "in a form as close as possible to the original in order to maintain as much spatial and timing information as possible." (*Id.*) In particular, NIST says it obtained "direct digital copies of digital photographs and videos, high resolution digitized copies of film or slide photographs, and direct copies from the original source of analog video." (*Id.*)

The Requesters hereby request all of the photographs and videos collected, reviewed, cited, or in any other way used by NIST during its investigation of the World Trade Center building collapses. A subset of the records requested herein comprises all 6,977 segments of video footage (whether 150 hours, 300 hours, or more), all 6,899 photographs, all of the more than 7,000 photographs, and all of the visual materials contained in the searchable database referred to in the various NIST reports and referenced and described above.

It is believed that these records are in the possession, custody or control of NIST, its current or former employees and other personnel, or the contractors, scientists and other entities or personnel that contributed to or participated in the NIST investigation.

This is not intended to limit the scope of the search for records responsive to this Request, but is merely intended as a suggestion as to where such records may be found.

These records should be easily located in the searchable database NIST asserts it has, although this Request also applies to any and all visual materials, regardless of whether they are currently or ever have been located in the searchable database. This Request also applies to visual materials that were collected, reviewed, cited or in any other way used by any person or entity that aided, assisted, contributed to, participated in, or was in any other way involved in the NIST investigation of the WTC building collapses. The term visual materials, as used herein, means photographs, videos, still frames from videos, and any similar such materials.

The Requesters request that all responsive records be produced in the highest quality electronic format possible. Digital pictures and videos should be produced in their native format whenever possible, with all metadata included. Digital versions of physical visual materials should be produced in the absolute highest quality digital format in which they are available. If analog video was converted to a digital format, it should be produced in the highest quality digital format in which it is available.

If it will facilitate responsiveness to this Request, the Requesters agree to provide one or more new, in the box, external hard disk drives to NIST. NIST personnel can then transfer all of the responsive records in electronic format to the external hard disk drives. NIST can provide the Requesters with information regarding how much storage space will be needed, and the Requesters will promptly purchase the needed storage media in accordance with the specifications provided by NIST and ship it directly to the NIST FOIA officer assigned to this Request. The undersigned agrees to pay reasonable duplication fees (in addition to the cost of necessary storage media and shipping costs) associated with the records provided in response to this Request, not to exceed \$500. The undersigned also kindly request that NIST provide the Requesters with an itemized estimate of the fees associated with said records if they are determined to exceed \$500. Given the fact that most or all of the responsive records are already contained on a single, searchable database, the Requesters seriously doubt the duplication fees should exceed \$500.

Notwithstanding any of the foregoing, the Requesters hereby request a fee waiver and/or reduction under 5 USC §552(a)(4)(A)(iii), because the responsive records are likely to contribute significantly to public understanding of the operations of activities of government, and they are not in the commercial interest of the Requesters. Specifically, the records will reveal whether NIST has adequately investigated and explained the worst attack on the United States since Pearl Harbor. Also, the records do not serve any commercial interests because, as described in more detail below, the Requesters are an individual and a not-for-profit entity that are engaged in scientific research and publishing papers regarding the WTC collapses. If a fee waiver is granted under this section, the Requesters still agree to provide any and all storage media needed for the released records at the cost of the Requesters.

The Requesters also hereby request that any fees that are charged be limited to only duplication charges under 5 USC §552(a)(4)(A)(ii)(II), because the records are not sought for commercial use, and because this Request is being made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research. In particular, the first Requester, James Gourley, has an undergraduate degree in chemical engineering, and is an attorney. He has authored or co-authored several papers regarding the WTC building collapses that have been published in mainstream, peer reviewed scientific journals. He is also the Director of the second requester, the International Center for 9/11 Studies (the Center).

Information about the Center can be found at its website: www.ic911studies.org. Mr. Gourley, as Director of the Center, has authored or co-authored the following papers:

Gourley, James. "Discussion of 'Mechanics of Progressive Collapse: Learning from World Trade Center and Building Demolitions' by Zdenek P. Bazant and Mathieu Verdure." *Journal of Engineering Mechanics*. Vol. 133, No. 3, pp. 308-319. (DOI: 10.1061(ASCE)0733-9399(2007)133:3(308)) (available online at <http://www.civil.northwestern.edu/people/bazant/PDFs/Papers/D25%20WTC%20Discussions%20Replies.pdf>)

Ryan, K., Gourley, J., Jones, S. "Environmental Anomalies at the World Trade Center: evidence for energetic materials." *The Environmentalist*. August 2008. (DOI: 10.1007/s10669-008-9182-4) (available online at <http://www.springerlink.com/content/f67q6272583h86n4/>)

Jones, S., Legge, F., Ryan, K., Szamboti, A., Gourley, J. "Fourteen Points of Agreement with Government Reports on the Destruction of the World Trade Center." *The Open Civil Engineering Journal*. Vol. 2, pp. 35-40. (DOI: 10.2174/1874149500802010035) (available online at <http://www.bentham-open.org/pages/content.php?TOCIEJ/2008/00000002/00000001/35TOCIEJ.SGM>)

The Center also led an effort in collaboration with the groups Architects and Engineers for 9/11 Truth (www.ae911truth.org), Scholars for 9/11 Truth and Justice (www.stj911.org), and other scientists and engineers to submit 26 pages of public comments on the draft report NIST released regarding the collapse of WTC Building 7. (Available online at <http://wtc.nist.gov/comments08/jamesGourleywtc7comments.pdf>) This was an enormous undertaking given the unreasonable three week deadline for submission of comments on the 1000+ page report. The Center's comments were successful in that they prompted NIST to make a number of revisions to the draft report before releasing it in final form.

Clearly the Center and Mr. Gourley qualify as educational or noncommercial scientific institutions under 15 C.F.R. 4.11(b)(5) and, as such, are entitled to a fee

structure that is limited to duplication costs only. Again, the Center or Mr. Gourley will provide any data storage media needed to fulfill this Request.

It has also come to the attention of the Requesters that NIST might attempt to withhold the requested records based on copyright considerations. Specifically, NIST might try to withhold the records based on the assertion that the rights holders for the records do not consent to them being released. This position is utterly and completely without merit. First, there is no exemption under 5 USC § 552(b) for copyrighted documents. This alone should settle the issue. The only exemption that could even arguably be asserted is exemption 4, "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 USC § 552(b)(4). However, the Copyright Act protects only the form of expression, but not the information or ideas contained in the expression. *See Feist Pubs., Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 348-49 (1991) (compilation of facts, if sufficiently original, is entitled to copyright protection although the facts contained therein are not); *Attia v. Soc'y of New York Hosp.*, 201 F.3d 50, 54 (2d Cir. 1999) ("A copyright thus protects not the author's ideas, but only her expression of them.") Exemption 4 only applies to "information" obtained from a person, namely information that constitutes a trade secret or commercial or financial information. Because copyright does not protect the information contained in works of authorship, agency records can never be withheld under Exemption 4 based on copyright. Furthermore, pictures and videos of the events of September 11, 2001 obviously do not contain commercial information, financial information, or trade secrets of the individuals that provided them to NIST.

Second, the United States Court of Appeals for the District of Columbia has specifically held that third party photographs are agency records and subject to FOIA. *See Weisberg v. United States Dep't of Justice*, 631 F.2d 824, 828 (D.C. Cir. 1980); *see also General Elec. Co. v. NRC*, 750 F.2d 1394, 1400-01 (7th Cir. 1984) (internal company report submitted in connection with licensing proceedings held to be "agency record" and subject to FOIA). The Freedom of Information Act and the *Weisberg* case pre-date the NIST investigation, and the photographers and videographers who provided their material to NIST did so subject to the then-existing legal framework. Therefore, the rights holders cannot complain about NIST complying with existing laws and releasing the records under a legitimate FOIA request. It is not the job of NIST to help copyright holders enforce their rights. It is instead the job of NIST to comply with existing FOIA laws and release all records that are not legitimately subject to one of the exemptions enumerated in the FOIA statute.

If the rights holders want to try and enforce any copyrights against the Requesters herein, they can attempt to do so, but they will lose. Any use by the Requesters of the records sought will certainly and obviously fall within the "fair use" exception to the Copyright Act, because the Requesters have absolutely no commercial interest in them at all. They will be used solely for scientific research purposes. Again, it is incumbent on the rights holders, not NIST, to police their rights if they think their rights have been violated. By providing documents to NIST for use in a federal investigation, the rights holders impliedly consented to their documents being copied and released under FOIA.

Finally, the Requesters refer NIST to a recent memo President Obama sent to the heads of all executive departments and agencies. (Available online here: http://s3.amazonaws.com/propublica/assets/docs/2009foia%20mem%20rel%20_2_.pdf) It states as follows:

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government.

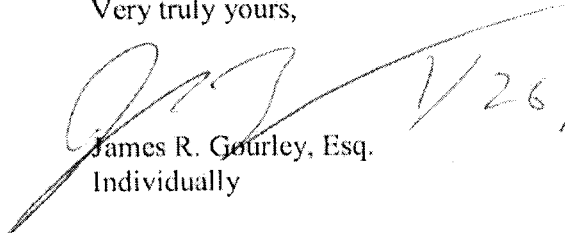
The presumption of disclosure should be applied to all decisions involving FOIA. The presumption of disclosure also means that agencies should take affirmative steps to make information public. They should not wait for specific requests from the public. All agencies should use modern technology to inform citizens about what is known and done by their Government. Disclosure should be timely.

This is certainly one policy change that the Requesters can wholeheartedly endorse. NIST should heed President Obama's new openness policy and release these records so they can become a welcome and much needed addition to the publicly available body of evidence regarding the attacks of September 11, 2001.

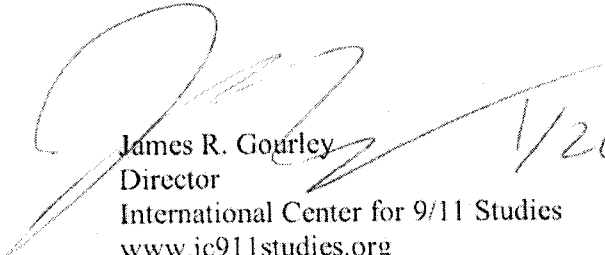
The undersigned Requesters submit this request jointly and severally. The Requesters reserve the right to pursue all administrative and judicial remedies available to them together or individually, in the Requesters' sole discretion.

Thank you very much for your time and consideration. Please do not hesitate to contact me directly if you have any questions or concerns regarding this Request.

Very truly yours,



James R. Gourley, Esq.
Individually



James R. Gourley
Director
International Center for 9/11 Studies
www.ic911studies.org

3-09CV0986-B

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. PLAINTIFFS

International Center for 9/11 Studies and James R. Gourley

(b) County of Residence of First Listed Plaintiff Dallas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Robert J. McEwan, 2201 N. Central Expy., Suite 225
Richardson, TX 75080; (972) 636-1151

DEFENDANTS

United States Department of Commerce and National Institute of Standards and Technology

County of Residence of First Listed Defendant BY
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

RECEIVED

28 2009

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 5 U.S.C. § 552

Brief description of cause:

Enforcement of Freedom of Information Act Request

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/27/2009

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____